



EUROPEAN COMMISSION

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A new EU Framework to safeguard the rule of law in the European Union

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I welcome this opportunity to present to you the new initiative of the Commission to strengthen the rule of law ([IP/14/237](#)).

As President Barroso recalled in his State of the Union address of last September, the crisis events we have witnessed in some Member States in recent years have demonstrated that respect for fundamental values and in particular for the rule of law, cannot be taken for granted. We had to deal with situations where safeguards - including the constitutional review - to protect democracy and fundamental rights at national level were seriously threatened.

The Commission took these situations very seriously, encouraged in this respect by a number of you who asked the Commission to react.

The respect for the rule of law is a prerequisite for the protection of all fundamental values listed in the Treaty on European Union, as it was explicitly quoted in the [Council conclusions of June](#) last year.

EU institutions and Member States turned to the Commission requesting its intervention as the Guardian of the Treaties. The Commission, after careful consideration, intervened by exerting political pressure and where possible with infringement proceedings. The Commission achieved results in upholding or restoring the rule of law.

However, these experiences clearly showed that the existing instruments at EU level are not always adequate to protect the rule of law. Infringement proceedings have limited scope as they can only address matters within the EU's competences and the thresholds to activate the mechanisms of Article 7 of the Treaty are very high.

In view of this situation, both the Council and the European Parliament have insisted on the need for new mechanisms or instruments. By setting up a new EU Framework to strengthen the Rule of Law, the Commission is responding to these calls.

The new EU Framework will address situations in which a systemic threat to the rule of law emerges in a Member State. If this threat cannot be effectively addressed by the safeguards and mechanisms which exist at national level, there is reason for the EU to step in. In such situations, the Commission will use the Framework if the existing instruments at EU level, in particular infringement proceedings and the mechanisms of Article 7 of the Treaty on European Union cannot be applied.

The objective of the Framework is to find a solution through dialogue with the Member State concerned. **The process is based on a number of key elements:** First, on an objective and thorough assessment by the Commission of the situation at stake. Second, on equal treatment of Member States, and third, on swift and concrete actions to address the systemic threat to the rule of law and to avoid the use of Article 7 of the Treaty all together.

We ensure equal treatment, first, by setting up in our Framework a clear procedure the characteristics of which are well known in advance and potentially apply to all the Member States, and second, by referring to the rule of law as a substantive principle common to all constitutional traditions of all the Member States. The case law of the Court of Justice and of the Court of Human Rights as well as the studies of the Venice Commission are the basis for our common understanding of the rule of law as common value of the Union.

The Framework establishes a **three stage process** consisting of a Commission assessment, a Commission recommendation and a follow-up to the Commission's recommendation. If no satisfactory follow-up to the recommendation is put in place by the Member State concerned, the Commission will assess the possibility of activating one of the mechanisms of Article 7. The Council and the European Parliament will be kept regularly and closely informed of the progress made in each of the stages.

In order to obtain expert knowledge on particular issues relating to the rule of law in Member States, the Commission may seek external expertise. Depending on the situation at stake, such expertise could be provided by the EU Agency for Fundamental Rights, by members of the Judicial Networks in the EU, such as the network of Presidents of the Supreme Courts of the EU and also by the Council of Europe and its Venice Commission.

Let me underline that the present Framework is based on Commission competences which are provided for by the existing Treaties. The Commission has the general power to issue recommendations and the specific – while not exclusive – competence of proposing the launch of Article 7 mechanisms. As I said, **our Framework is a preliminary stage to the use of Article 7.** A Treaty change is therefore not necessary. However, **the Commission considers that future changes of the Treaties in this area should not be excluded**, but should be discussed as part of the broader reflections on the future of Europe.

Let me conclude by emphasising that the role of the Council and of the European Parliament - in addition to the action of the Commission - will be crucial in reinforcing the EU's determination to uphold the rule of law within its borders. If the EU wants to credibly uphold the rule of law externally, we have to first ensure the rule of law is enshrined internally in our Union.